

AMENDED IN ASSEMBLY APRIL 6, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 2810

Introduced by Assembly Member Robert Pacheco

February 28, 2000

An act to amend Sections 6400 ~~and 6402~~, 6402, and 6405 of the Business and Professions Code, relating to legal document and unlawful detainer assistants, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2810, as amended, Robert Pacheco. Legal document and unlawful detainer assistants: ~~county of~~ registration.

Existing law generally regulates legal document and unlawful detainer assistants, as defined, and, among other things, requires them to be registered with the county clerk in each county in which the services are being provided *and to include with each registration application a bond or cash deposit in the amount of \$25,000.*

This bill would, instead, require registration only in the county in which a legal document or unlawful detainer assistant has his or her principal place of business *and would specify that the bond accompanying the registration be in favor of the State of California for the benefit of persons damaged by specified acts of the registrants.*

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6400 of the Business and
2 Professions Code is amended to read:

3 6400. (a) “Unlawful detainer assistant” means any
4 individual who for compensation renders assistance or
5 advice in the prosecution or defense of an unlawful
6 detainer claim or action, including any bankruptcy
7 petition that may affect the unlawful detainer claim or
8 action.

9 (b) “Unlawful detainer claim” means a proceeding,
10 filing, or action affecting rights or liabilities of any person
11 that arises under Chapter 4 (commencing with Section
12 1159) of Title 3 of Part 3 of the Code of Civil Procedure
13 and that contemplates an adjudication by a court.

14 (c) “Legal document assistant” means:

15 (1) Any person who is not exempted under Section
16 6401 and who provides, or assists in providing, or offers to
17 provide, or offers to assist in providing, for compensation,
18 any self-help service to a member of the public who is
19 representing himself or herself in a legal matter, or who
20 holds himself or herself out as someone who offers that
21 service or has that authority. This paragraph shall not
22 apply to any individual whose assistance consists merely
23 of secretarial or receptionist services.

24 (2) A corporation, partnership, association, or other
25 entity that employs or contracts with any person not
26 exempted under Section 6401 who, as part of his or her
27 responsibilities, provides, or assists in providing, or offers
28 to provide, or offers to assist in providing, for
29 compensation, any self-help service to a member of the
30 public who is representing himself or herself in a legal
31 matter or holds himself or herself out as someone who
32 offers that service or has that authority. This paragraph
33 shall not apply to an individual whose assistance consists
34 merely of secretarial or receptionist services.

35 (d) “Self-help service” means all of the following:



1 (1) Completing legal documents in a ministerial
2 manner, selected by a person who is representing himself
3 or herself in a legal matter, by typing or otherwise
4 completing the documents at the person's specific
5 direction.

6 (2) Providing general published factual information
7 that has been written or approved by an attorney,
8 pertaining to legal procedures, rights, or obligations to a
9 person who is representing himself or herself in a legal
10 matter, to assist the person in representing himself or
11 herself. This service in and of itself, shall not require
12 registration as a legal document assistant.

13 (3) Making published legal documents available to a
14 person who is representing himself or herself in a legal
15 matter.

16 (4) Filing and serving legal forms and documents at
17 the specific direction of a person who is representing
18 himself or herself in a legal matter.

19 (e) "Compensation" means money, property, or
20 anything else of value.

21 (f) A legal document assistant, including any legal
22 document assistant employed by a partnership or
23 corporation, shall not provide any self-help service for
24 compensation after January 1, 2000, unless the legal
25 document assistant is registered in the county in which his
26 or her principal place of business is located.

27 (g) A legal document assistant shall not provide any
28 kind of advice, explanation, opinion, or recommendation
29 to a consumer about possible legal rights, remedies,
30 defenses, options, selection of forms, or strategies. A legal
31 document assistant shall complete documents only in the
32 manner prescribed by paragraph (3) of subdivision (d).

33 (h) This section shall remain in effect only until
34 January 1, 2003, or the date the director suspends the
35 requirements of this chapter applicable to legal
36 document assistants pursuant to Section 6416, whichever
37 first occurs, and as of that date is repealed, unless a later
38 enacted statute, that is enacted before that date, deletes
39 or extends that date.

1 SEC. 2. Section 6402 of the Business and Professions
2 Code, as amended by Section 8 of Chapter 1079 of the
3 Statutes of 1998, is amended to read:

4 6402. A legal document assistant or unlawful detainer
5 assistant shall be registered pursuant to this chapter by
6 the county clerk in the county in which his or her
7 principal place of business is located. No person who has
8 been disbarred or suspended from the practice of law
9 pursuant to Article 6 (commencing with Section 6100) of
10 Chapter 4 shall, during the period of any disbarment or
11 suspension, register as a legal document assistant or
12 unlawful detainer assistant. The Department of
13 Consumer Affairs shall, by July 1, 1999, develop the
14 application that shall be completed by a person for
15 purposes of registration as a legal document assistant. The
16 application shall specify the types of proof that the
17 applicant shall provide to the county clerk in order to
18 demonstrate the qualification and requirements of
19 Section 6402.1.

20 This section shall remain in effect only until January 1,
21 2003, or the date the director suspends the requirements
22 of this chapter applicable to legal document assistants
23 pursuant to Section 6416, whichever first occurs, and as of
24 that date is repealed, unless a later enacted statute, that
25 is enacted before that date, deletes or extends that date.

26 SEC. 3. Section 6402 of the Business and Professions
27 Code, as added by Section 9 of Chapter 1079 of the
28 Statutes of 1998, is amended to read:

29 6402. An unlawful detainer assistant shall be
30 registered pursuant to this chapter by the county clerk in
31 the county in which his or her principal place of business
32 is located. No person who has been disbarred or
33 suspended from the practice of law pursuant to Article 6
34 (commencing with Section 6100) of Chapter 4 shall,
35 during the period of any disbarment or suspension,
36 register as an unlawful detainer assistant.

37 This section shall become operative January 1, 2003, or
38 the date the director suspends the requirements of this
39 chapter applicable to legal document assistants pursuant
40 to Section 6416, whichever first occurs.

1 SEC. 4. *Section 6405 of the Business and Professions*
2 *Code is amended to read:*

3 6405. (a) (1) An application for a certificate of
4 registration by an individual shall be accompanied by a
5 bond of twenty-five thousand dollars (\$25,000) executed
6 by a corporate surety qualified to do business in this state
7 and conditioned upon compliance with this chapter. The
8 total aggregate liability on the bond shall be limited to
9 twenty-five thousand dollars (\$25,000).

10 (2) An application for a certificate of registration by a
11 partnership or corporation shall be accompanied by a
12 bond of twenty-five thousand dollars (\$25,000) executed
13 by a corporate surety qualified to do business in this state
14 and conditioned upon compliance with this chapter. The
15 total aggregate liability on the bond shall be limited to
16 twenty-five thousand dollars (\$25,000). An application for
17 a certificate of registration by a person employed by a
18 partnership or corporation shall be accompanied by a
19 bond of twenty-five thousand dollars (\$25,000) only—~~when~~
20 *if* the partnership or corporation has not posted a bond of
21 twenty-five thousand dollars (\$25,000) as required by this
22 subdivision.

23 (3) The bond may be terminated pursuant to Section
24 995.440 of, and Article 13 (commencing with Section
25 996.310) of Chapter 2 of Title 14 of Part 2 of, the Code of
26 Civil Procedure.

27 (b) The county clerk shall, upon filing of the bond,
28 deliver the bond forthwith to the county recorder for
29 recording. The recording fee specified in Section 27361 of
30 the Government Code shall be paid by the registrant. The
31 fee may be paid to the county clerk, who shall transmit it
32 to the recorder.

33 (c) The fee for filing, canceling, revoking, or
34 withdrawing the bond is seven dollars (\$7).

35 (d) The county recorder shall record the bond and any
36 notice of cancellation, revocation, or withdrawal of the
37 bond, and shall thereafter mail the instrument, unless
38 specified to the contrary, to the person named in the
39 instrument and, if no person is named, to the party
40 leaving it for recording. The recording fee specified in

1 Section 27361 of the Government Code for notice of
2 cancellation, revocation, or withdrawal of the bond shall
3 be paid to the county clerk, who shall transmit it to the
4 county recorder.

5 (e) In lieu of the bond required by subdivision (a), a
6 registrant may deposit twenty-five thousand dollars
7 (\$25,000) in cash with the county clerk.

8 (f) If the certificate is revoked, the bond or cash
9 deposit shall be returned to the bonding party or
10 depositor subject to subdivision (g) and the right of a
11 person to recover against the bond or cash deposit under
12 Section 6412.

13 (g) The county clerk may retain a cash deposit until
14 the expiration of three years from the date the registrant
15 has ceased to do business, or three years from the
16 expiration or revocation date of the registration, in order
17 to ensure there are no outstanding claims against the
18 deposit. A judge of a municipal or superior court may
19 order the return of the deposit prior to the expiration of
20 three years upon evidence satisfactory to the judge that
21 there are no outstanding claims against the deposit.

22 (h) *The bond required by this section shall be in favor*
23 *of the State of California for the benefit of any person who*
24 *is damaged as a result of the violation of this chapter or*
25 *by the fraud, dishonesty, or incompetency of an*
26 *individual, partnership, or corporation registered under*
27 *this chapter. The bond required by this section shall also*
28 *indicate the name of the county in which it will be filed.*

29 SEC. 5. This act is an urgency statute necessary for
30 the immediate preservation of the public peace, health,
31 or safety within the meaning of Article IV of the
32 Constitution and shall go into immediate effect. The facts
33 constituting the necessity are:

34 ~~Legal document and unlawful detainer assistants will~~
35 ~~incur bond costs associated with registration in each~~
36 ~~county in which they practice rather than solely in the~~
37 ~~county in which their principal place of business is~~
38 ~~located. In order to avoid their incurring these additional~~
39 ~~expenses~~

1 *This act would prevent legal document and unlawful*
2 *detainer assistants from incurring bond costs associated*
3 *with registering in counties in which they practice but do*
4 *not maintain a principal place of business and would*
5 *further the protection of consumers by specifying that*
6 *bonds filed in connection with this registration procedure*
7 *be in favor of the State of California for the benefit of*
8 *persons damaged by specified acts of these registrants. In*
9 *order to provide at the earliest possible time that*
10 *consumers receive greater protection and registrants be*
11 *relieved of the hardship of bonding expenses in multiple*
12 *jurisdictions, it is necessary that this act take effect*
13 *immediately.*

